



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,949	02/14/2001	Michael R. Miller	QOD1P025	2332

7590 08/13/2004

WILLIAM FRITZ  
NEOMEDIA TECHNOLOGIES, INC.  
2201 SECOND STREET  
SUITE 600  
FORT MYERS, FL 33901

EXAMINER
----------

PEREZ DAPLE, AARON C

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/783,949

**Applicant(s)**

MILLER ET AL.

**Examiner**

Aaron C Perez-Daple

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2154

### DETAILED ACTION

1. This Action is in response to Application filed 2/14/01, which has been fully considered.
2. Claims 1-15 are presented for examination.
3. This Action is non-Final.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-15** are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (US 6,177,931 B1) (hereinafter Alexander).

6. As for claims 1, 6 and 11, Alexander discloses a method, product and system for promoting entertainment programs, comprising the steps of:

(a) receiving a request relating to an item from a user utilizing a network (col. 4, lines 13-61; col. 21, line 15 – col. 22, line 33);

(b) mapping the inquiry to a promotion for a media program of a similar genre (col. 21, line 15 – col. 22, line 33; col. 33, lines 26-65); and

(c) outputting the promotion to the user utilizing the network (col. 33, lines 26-35).

Art Unit: 2154

7. As for claims 2, 7 and 12, Alexander teaches the method of claims 1, 6 and 11, wherein the request is for uploading at least one of text, video, and audio (col. 21, line 15 – col. 22, line 33; col. 34, lines 10-25).
8. As for claims 3, 8 and 13, Alexander teaches the method of claims 1, 6 and 11, wherein an opportunity is presented for programming a client device of the user for recording the media program (col. 21, lines 55-67).
9. As for claims 4, 9 and 14, Alexander teaches the method of claims 1, 6 and 11, wherein an opportunity is presented for programming a client device of the user for recording the media program (col. 21, lines 39-67).
10. As for claims 5, 10 and 15, Alexander teaches the method of claims 1, 6 and 11, wherein the network is the Internet (col. 8, lines 37-64).


### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,587,127 B1, note delivery of personal content and advertisements via the internet; US 6,463,585 B1, note targeted advertising; US 6,446,130 B1, note abstract; US 6,434,747 B1, note Fig. 1; US 6,338,044 B1, note abstract.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C Perez-Daple whose telephone number is (703) 305-4897. The examiner can normally be reached on 9am-5pm.

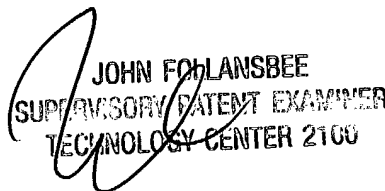
Art Unit: 2154

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Handwritten signature of Aaron Perez-Daple, dated 8/4/04.

Aaron Perez-Daple

Handwritten signature of John Follansbee.

JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100